

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA**

**UNITED STATES OF AMERICA**

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**CRIMINAL NO: 09- 057**

**v.**

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**SECTION: “N” (2)**

**GERALD ROBERTS**

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**FACTUAL BASIS**

If this case were to proceed to trial, the Government would prove the Defendant guilty beyond a reasonable doubt of Counts 1 through 4, Count 6, and Count 15 of the Indictment. In those various counts, the Defendant, GERALD ROBERTS, is charged with: *one*, knowingly and intentionally distributing less than fifty kilograms of marijuana on or about July 30, 2008 (Count 1); *two*, knowingly and intentionally less than fifty kilograms of marijuana on or about August 7, 2008 (Count 2); *three*, participating in a conspiracy to distribute less than fifty kilograms of marijuana (Count 3); *four*, knowingly and intentionally distributing less than fifty kilograms of marijuana on or about August 12, 2008 (Count 4); *five*, knowingly and intentionally distributing fifty grams or more of cocaine base on or about August 14, 2008 (Count 6); and *six*, knowingly and intentionally possessing in and affecting commerce a firearm, after having been convicted of a crime punishable

by imprisonment for a term exceeding one year (Count 15). The Government would establish the following through reliable and competent evidence:

1) Prior to the earliest date mentioned in the Indictment, ROBERTS had sustained a felony conviction on July 13, 1993, in the Criminal District Court for the Parish of Orleans, State of Louisiana, under case number 362-418 "B", for Possession of Crack, in violation of LA Revised Statute 40:967(C)(2).

#### COUNT 1

2) On July 30, 2008, Alcohol, Tobacco, Firearms and Explosives ("ATF") Special Undercover Agent #1 ("UC #1") and Louisiana State Police ("LSP") Undercover Trooper #2 ("UC #2) purchased approximately one (1) pound of marijuana from ROBERTS.

3) ROBERTS arrived at the undercover location (a bogus "store" on Oleander Street in the city of New Orleans within the Eastern District of Louisiana) in the afternoon of July 30, 2008 with two other individuals and eventually began talking to UC #1 about narcotics. UC #1 asked ROBERTS how much he charged for a pound of marijuana and ROBERTS informed him that he charged \$650.00. UC #1 then advised ROBERTS that he agreed to buy a pound of marijuana from him for that price. As ROBERTS left the store he was observed by two ATF surveillance agents who saw ROBERTS drive directly from the store to 3229 Joliet St. and enter the residence. They soon thereafter observed ROBERTS exit the residence carrying a plastic shopping bag. ROBERTS then got back into his truck and drove back to the store.

4) At approximately 2:04 p.m., ROBERTS arrived back at the store with an unidentified individual and he, ROBERTS, produced the plastic shopping bag of marijuana and placed it on the countertop. ROBERTS removed a gallon size zip lock style bag from the shopping bag and handed it to UC #2. UC #2 weighed the marijuana that ROBERTS provided and it received a weight of 1.03

lbs. UC #1 then paid ROBERTS \$625.00 for the marijuana and ROBERTS then departed the store with the other individual. ATF special agents have a video recording of this narcotics transaction.

5) A Louisiana State Police Crime Laboratory report later confirmed that the substance ROBERTS delivered to the undercover agents was, in fact, marijuana, and that it weighed 444.18 net grams.

### COUNT 2

6) On August 7, 2008, the undercover agents purchased approximately one (1) pound of marijuana from ROBERTS.

7) At approximately 2:50 p.m., UC #1 contacted ROBERTS at a previously provided phone number of 504-496-7050 and asked him if he could provide him with a pound of marijuana. ROBERTS told UC #1 that he could and would be at the store shortly.

8) At approximately 3:17 p.m., two ATF agents conducting surveillance observed a maroon Buick pull up to 3229 Joliet St. ROBERTS was seen exiting the car and entering the residence. Shortly thereafter he exited the residence carrying a bag, got back in the vehicle, and drove towards the store.

9) At approximately 3:20 p.m., ROBERTS arrived at the store and entered carrying a yellow plastic bag. ROBERTS handed the bag to UC #2 who then removed the contents revealing a gallon size clear plastic bag and clear plastic wrapping that contained a substance which appeared to be marijuana. UC #2 weighed the suspected marijuana and it received a weight of 16.23 ounces. UC #2 paid ROBERTS \$650.00 for the suspected marijuana and ROBERTS departed. This transaction was recorded on DVR by ATF agents. The suspected marijuana field tested positive for marijuana.

10) Louisiana State Police Crime Lab tests later confirmed that the green leafy substance was, in fact, 446.40 net grams of marijuana.

### COUNTS 3 & 4

- 11) On August 12, 2008, ROBERTS and co-defendant John Delco conspired and sold approximately one (1) pound of marijuana to the undercover agents.
- 12) At approximately 12:55 p.m., ROBERTS arrived at the store and asked UC #2 "You need anything?". UC #2 ordered a pound of marijuana. ROBERTS then left the store and ATF surveillance observed that he drove directly to his residence at 3229 Joliet St.
- 13) Thereafter, ROBERTS' co-defendant, John Delco, was at the store. Delco took a phone call and as he hung up he informed both UCs' that ROBERTS would meet him across the street from the store. ROBERTS and Delco then entered the store together at 1:05 p.m. Once inside the store, ROBERTS directed Delco to go out to his vehicle and retrieve the one (1) pound of marijuana. Delco went to the truck and returned to the store with a yellow plastic grocery bag of suspected marijuana and gave it to UC #2. UC #2 then opened the yellow bag and revealed a clear gallon sized zip lock plastic bag that contained a green leafy substance believed to be marijuana. UC #2 weighed the suspected marijuana and it received a weight of 16.16 ounces. UC #2 then paid ROBERTS \$650.00 for the suspect marijuana and ROBERTS left the store. The Louisiana State Police Crime Lab later confirmed that the green leafy substance was, in fact, 446.40 net grams of marijuana.

### COUNT 6

- 14) On August 14, 2008, undercover agents purchased approximately one (1) pound of marijuana from ROBERTS.
- 15) At approximately 3:00 p.m., UC #1 spoke on the phone with ROBERTS regarding the purchase of 2.25 ounces of crack cocaine. ROBERTS stated he could sell 2.25 ounces of crack

cocaine to UC #1 for \$2,000.00. UC #1 agreed to the price but ROBERTS insisted that UC #1 front him the money for the buy. ROBERTS indicated that his source would not front him the crack cocaine. ROBERTS departed the store and advised UC #1 that he would try to facilitate the transaction. Two ATF agents conducting surveillance observed ROBERTS relocate to 4947 Stephen Girard Ave. in New Orleans. Shortly thereafter, UC #1 was contacted by ROBERTS who advised that he was en route to meeting his crack cocaine source and that his source now agreed to front him the crack cocaine. ROBERTS told UC #1 that he would be at the store shortly.

16) At approximately 3:40 p.m., ROBERTS and an unidentified individual entered the store. The unidentified individual had entered the store on multiple occasions and had been present when the UC's bought marijuana from ROBERTS. The unidentified individual produced a wadded piece of white paper and handed it to UC #1. When UC #1 opened the paper it revealed a large white rock-like substance believed to be crack cocaine wrapped in clear plastic. UC #1 weighed the suspected crack cocaine and it received a weight of 63.3 grams. UC #1 then paid ROBERTS \$2,000.00 for the crack cocaine. ROBERTS and the unidentified individual then left the store. The Louisiana State Police Crime Lab later confirmed that the green leafy substance was, in fact, 442.81 net grams of marijuana.

#### COUNT 15

17) On November 25, 2008, ROBERTS sold a firearm to UC #1 for \$120.00.

18) ROBERTS first called UC #1 and told him that he had something he wanted to sell him. Co-defendant John Delco then called UC #1 and informed him that he knew someone who wanted to sell a gun. During that conversation, Delco stated to UC #1 that it was ROBERTS who he would be bringing to the store in order to sell the firearm.

19) While Delco was at the store he received a phone call from ROBERTS. ROBERTS instructed Delco to meet him across the street from the store at a tire store located at the corner of Carrollton Ave. and Oleander St. UC #2 observed ROBERTS arrive at the tire store in a gold-colored SUV, and he also observed Delco meet ROBERTS near the store. After the two men had a brief conversation, Delco returned to the store carrying a white plastic bag.

20) After he arrived back at the store, Delco handed the white plastic bag to UC #1. UC #1 opened the bag and observed a Lorcin Model L380, .38 caliber semi-automatic pistol bearing serial number 196649 wrapped in a small towel. Delco then called ROBERTS on his cell phone and handed the phone to UC #1. UC #1 and ROBERTS negotiated a price of \$120.00 for the firearm. UC #1 then paid Delco the agreed upon price and also gave Delco an additional \$50.00 for arranging the transaction. Delco then departed.

21) ROBERTS is precluded from possessing any firearms due to the prior felony conviction cited in enumerated paragraph one (1) of this Factual Basis.

GERALD ROBERTS admits that on July 30, 2008, he distributed less than fifty kilograms of marijuana, and he acknowledges that said conduct constitutes knowing violations of Title 21, Unites States Code, Sections 841(a)(1) and 841(b)(1)(D).

GERALD ROBERTS admits that on August 7, 2008 he distributed less than fifty kilograms of marijuana, and he acknowledges that said conduct constitutes knowing violations of Title 21, Unites States Code, Sections 841(a)(1) and 841(b)(1)(D).

GERALD ROBERTS admits that he participated in a criminal conspiracy with John Delco to distribute less than fifty kilograms of marijuana on or about August 12, 2008, and he acknowledges that said conduct constitutes a knowing violation of Title 21, Unites States Code, Sections 841(a)(1), 841(b)(1)(D), and 846.

GERALD ROBERTS finally admits he was in possession of the firearm mentioned in enumerated paragraph twenty (20), and he acknowledges that said conduct constitutes knowing violations of Title 18, United States Code, Sections 922(g)(1) and 924(a)(2).

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**FREDERICK W. VETERS, JR.**  
Assistant United States Attorney

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DATE

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**JAMES PAUL JOHNSON**  
Attorney for Defendant

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DATE

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**GERALD ROBERTS**  
Defendant

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DATE